

REMARKS

Applicants request favorable reconsideration and allowance of the subject application in view of the preceding amendments and the following remarks.

Initially, Applicants take this opportunity to point out that the Information Disclosure Statement (IDS) filed on December 11, 2003, has not yet been indicated as being considered by the Examiner. Applicants request favorable consideration of the IDS and the Examiner to return an annotated copy of the Form PTO-1449 included with the IDS indicating such consideration.

Claims 1-62 are pending in this application, with claims 1, 5, 21, 30, 39, and 43 being independent. Claims 1, 5, 39, and 43 have been amended herein to more clearly define the invention. Claims 59-62 have been added to recite additional features of the subject invention. These changes and claims are supported by the original application, as filed. Therefore, no new matter has been added.

Applicants' representatives would like to thank Examiner Eloschway for the cordial and productive interview held on April 27, 2004. At the interview, the independent claims, as well as the cited art, were discussed. The amendments presented herein to claims 1, 5, 39, and 43 were prompted by the interview. In particular, as suggested by the Examiner, these claims have been amended to recite that a portion of the top flange surface of a valve is for contacting a first seating surface of the valve seat and that portion is non-complementary to one or both of the first seating surface and a second seating surface.

Also, new independent claim 59 has been added to afford Applicants an additional scope of coverage, in keeping with the spirit of the interview. Applicants request favorable consideration of claim 59 and of claims 60-62 depending therefrom.

The Office Action rejected claims 1 and 2 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,273,305 to Fioravanti et al. Claims 3 and 4 were rejected under

35 U.S.C. § 103(a) as being unpatentable over the Fioravanti et al. patent; claims 5-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Fioravanti et al. patent in view of U.S. Patent No. 4,612,960 to Edwards et al.; claims 21, 22, 26-31, 35-37, and 39-42 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Fioravanti et al. patent in view of U.S. Patent No. 5,788,108 to Rohr; and claims 23-25, 32-34, 38, and 43-54 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Fioravanti et al. patent in view of the Rohr patent, and further in view of the Edwards et al. patent. Applicants respectfully traverse these rejections.

Independent claim 1 recites a valve assembly, whereas independent claim 39 recites an improved assembly from which to drink. As now recited in independent claims 1 and 39, Applicants' inventions include at least one of (i) a first seating surface of a valve seat that is non-complementary to a portion of the top flange surface of the valve, wherein the portion of the top flange surface is for contacting the first seating surface of the valve seat and (ii) a bottom flange surface that is non-complementary to a valve engaging surface.

Further, independent claims 5 and 43 recite various aspects of a valve assembly, and an improved assembly from which to drink, respectively. According to each of independent claims 5 and 43, Applicants' inventions include at least one of (i) a first seating surface of a valve seat that is non-complementary to a portion of the top flange surface of the valve, wherein the portion of the top flange surface is for contacting the first seating surface of the valve seat, (ii) a second seating surface that is non-complementary to the portion of the top flange surface of the valve that is for contacting the first seating surface of the valve seat, and (iii) a bottom flange surface that is non-complementary to a valve engaging surface.

Still further, independent claims 21 and 30 recite various aspects of a lid and an assembly from which to drink, respectively. According to each of independent claims 21 and 30 (unamended herein), Applicants' inventions include a cover attached via a hinge to a lid, the cover having a first sidewall and a second sidewall opposite to the first sidewall, each sidewall

having a protrusion extending therefrom that is shaped so as to engage one of a first aperture and a second aperture formed in the lid.

Moreover, new independent claim 59 recites a valve assembly in which when a valve is retained within a cavity defined by at least a valve seat, a retaining wall, and a valve engaging surface, the valve is deformed such that at least one of a portion of the top flange surface that is non-complementary to the first seating surface when the valve is not contained within the cavity contacts the first seating surface and becomes complementary thereto and a portion of the bottom flange surface that is non-complementary to the valve engaging surface when the valve is not contained within the cavity contacts the valve engaging surface and becomes complementary thereto.

Applicants assert that at least these salient features of Applicants' invention are not taught or suggested by the cited art, whether that art is taken alone or in combination.

As discussed at the interview, the Fioravanti et al. patent relates to valves for packaging containers and discloses a self-closing valve for a packaging container. The valve 10 has an outwardly concave valve head 22 joined to a mounting ring 20 by a flexible connecting wall 24. The connecting wall 24 has a frustoconical outer part 56 and a cylindrical inner part 57 joined together at an elbow 58. The mounting ring 20 has inclined upper and lower faces 26, 28. The upper and lower faces 26, 28 are engaged by opposed inclined surfaces of upper and lower parts 32, 34 of a housing 12, respectively, for holding the valve 10 in position. As pointed out in the Office Action, the "radially outer edges" of the inclined upper face 26 depend away from the opposed inclined surface of upper part 32. (Office Action, p. 2.) The Examiner relies only upon this to show a first seating surface that is non-complementary to a top flange surface.

However, Applicants assert that the Fioravanti et al. patent does not teach or suggest at least the features of independent claims 1 and 39 discussed above. In particular, the Fioravanti et al. patent fails to teach or suggest that a first seating surface is non-complementary to a portion of a top flange surface of a valve, wherein the portion is for contacting the first

seating surface. Also, the Fioravanti et al. patent fails to teach or suggest any non-complementary relationship between a bottom flange surface and a valve engaging surface. Furthermore, the Fioravanti et al. patent does not teach or suggest any non-complementary relationship between a second seating surface and the portion of the top flange surface that is for contacting the first seating surface of the valve seat, as recited in independent claims 5 and 43, or a cover attached via a hinge to a lid, the cover having a first sidewall and a second sidewall opposite to the first sidewall, as recited in independent claims 21 and 30. The Fioravanti et al. patent also does not teach or suggest that surfaces of a valve and of a cavity that are non-complementary when the valve is not retained within the cavity become complementary upon retention of the valve within the cavity, as recited in claim 59.

The Edwards et al. patent is directed to a valve assembly for permitting relatively free flow in a first direction and for preventing flow in a second, opposite direction. According to Applicants' understanding, the Edwards et al. patent is cited merely for teaching a valve seat with multiple seating surfaces. Without conceding the propriety of this characterization of the Edwards et al. patent, Applicants submit that the Edwards et al. patent fails to remedy the deficiencies discussed above with respect to the Fioravanti et al. patent. In particular, the Edwards et al. patent does not teach or suggest any of the non-complementary relationships recited in independent claims 1, 5, 39, 43, and 58 discussed above, and it does not teach or suggest a cover attached via a hinge to a lid, the cover having a first sidewall and a second sidewall opposite to the first sidewall, as recited in independent claims 21 and 30.

The Rohr patent, directed to a dispensing closure with a retractable lid, was cited as teaching a container assembly with a container lid, cover receiving portion, hinge, and cover. Applicants understand the Rohr patent to teach a lid 49 that is movable between a closed position covering a dispensing passage 60 and an open position in which the lid 49 is retracted. Applicants submit, however, that the Rohr patent fails to remedy the deficiencies noted above with respect to the Fioravanti et al. and Edwards et al. patents. In particular, the Rohr patent fails

to teach or suggest any of the non-complementary relationships recited in independent claims 1, 5, 39, 43, and 58. Furthermore, Applicants do not understand the Rohr patent to teach or suggest the salient features of independent claims 21 and 30, because, for example, Applicants understand the Rohr patent to teach only a single protuberance 131 formed to cover a single dispensing passage 60.

Thus, Applicants respectfully submit that the present invention as recited in independent claims 1, 5, 21, 30, 39, 43, and 58 is neither taught nor suggested by the teachings of the Fioravanti et al., Edwards et al., and Rohr patents, whether those patents are taken individually, or in combination. Furthermore, because at least the salient features discussed above with respect to independent claims 1, 5, 21, 30, 39, 43, and 58 are not taught or suggested in the cited patents, Applicants traverse the Office Action's repeated assertion that one of ordinary skill in the art would have been able to "discover the optimum or workable ranges" or to "change [the] size" of features disclosed in the cited patents in order to render obvious Applicants' invention. (*See, e.g.*, Office Action, p. 3.) Specifically, because these features are not taught in the art, whether that art is taken alone or in combination, Applicants respectfully submit that the proposition set forth in the Office Action, i.e., regarding "ranges" and "sizes," is inapposite.

In view of the foregoing, Applicants submit that each of independent claims 1, 5, 21, 30, 39, 43, and 58 is patentably distinguished over the cited art, whether the art is taken alone or in combination. Moreover, Applicants assert that the claims would not have been obvious to one of ordinary skill in the art, as discussed above. Favorable reconsideration and withdrawal of the outstanding rejections are requested.

Claims 2-4, 6-20, 22-29, 31-38, 40-42, 44-58, and 60-62 each variously depend from one of the independent claims. Applicants submit that each of these claims also should be deemed allowable, in their own right, for defining other patentable features of the present

invention in addition to those recited in their respective independent claims. Further individual consideration of each dependent claim is requested.

Applicants submit that this application is in condition for allowance. Favorable reconsideration, withdrawal of the rejections set forth in the above-noted Office Action, and early passage to issue are requested.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to the address given below for S.C. Johnson & Son, Inc.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Steven E. Warner", is written over a horizontal line.

Steven E. Warner
Registration No. 33,326
Attorney for Applicants

S.C. JOHNSON & SON, INC.
Attn: Kristin L. Chapman
Patent Section, M.S. 077
1525 Howe Street
Racine, Wisconsin 53403
Telephone: (262) 260-2000
Facsimile: (262) 260-4253

Fitzpatrick, Cella, Harper & Scinto
1900 K Street, N.W., Suite 1000
Washington, DC 20006-1110
Facsimile: (202) 530-1055